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15 *Sandoval, Scott Sisco, David Tristan, and Harold Wickham*

16 **UNITED STATES DISTRICT COURT**

17 **DISTRICT OF NEVADA**

18 JOSEPH ANTONETTI,

19 Plaintiff,

20 v.

21 FILSON, et al.,

22 Defendants.

23 Case No. 3:17-cv-00605-MMD-CLB

24 **MOTION TO EXTEND THE DEADLINE
TO FILE MOTIONS FOR
SUMMARY JUDGMENT
(First Request)**

25 Defendants, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada,
26 and Harry B. Ward, Deputy Attorney General, hereby move to extend the deadline to file dispositive
27 motions in this matter by sixty (60) days.

28 **MEMORANDUM OF PONTS AND AUTHORITIES**

29 **I. INTRODUCTION**

30 This is an inmate civil rights lawsuit brought by Plaintiff Joseph Antonetti (Plaintiff), pursuant to 42
31 U.S.C. § 1983, and the First, Eighth, and Fourteenth Amendments to the U.S. Constitution. (See
32 generally, ECF No. 6.) Plaintiff was an inmate in the lawful custody of the Nevada Department of
33 Corrections (NDOC). (*Id.*) Plaintiff is currently incarcerated in Lea County Correctional Facility in
34 New Mexico (ECF No. 44); however, all of Plaintiff's alleged claims in this suit relate to his
35 incarceration in the NDOC. (See generally, ECF No. 6.)

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1 On October 3, 2018, Plaintiff filed a thirty-three (33) page Complaint. (ECF No. 6.) The Court
2 issued a thirty-eight (38) page Screening Order allowing Plaintiff to proceed on five counts of alleged
3 constitutional violations and against fourteen (14) Defendants. (ECF No. 5 at 34-38.) On September 10,
4 2019, the Court issued a Scheduling Order setting Wednesday, January 8, 2020, as the deadline to file
5 dispositive motions. (ECF No. 34 at 3-4.)

6 Defendants have been working diligently to timely file their dispositive motion in this matter. As
7 indicted, Plaintiff's claims include multiple alleged constitutional violations against fourteen (14)
8 Defendants and Defendants need additional time to investigate and respond to all claims.

9 Furthermore, as this Court is aware, multiple attorneys in the Public Safety Division, have
10 recently left the division, and new attorneys, including undersigned counsel, have only recently started
11 with the Division. Additionally, there have been "no net gain" in attorneys with the Division- same
12 number of attorneys for the same heavy case load and counsel's case load includes a number of cases
13 from four attorneys that left the Division (but not all their cases) as well as newly filed cases. Defense
14 counsel respectfully requests this extension to become more acquainted with this large case, explore all
15 possible defenses, and obtain declarations from defendants in support of their motion for summary
16 judgment.

17 Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as follows:

18 When an act may or must be done within a specified time, the court may,
19 for good cause, extend the time: (A) with or without motion or notice if
20 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

21 Defendants' request is timely and will not hinder or prejudice Plaintiff's case, but will allow for a
22 thorough briefing to narrow or eliminate issues in this case. The requested for sixty (60) day extension
23 of time should permit the parties' time to adequately research, draft, and submit dispositive motions in
24 this case. Defendants assert that the requested good cause is present to warrant the requested extension
25 of time.

26 For these reasons, Defendants respectfully request a sixty (60) day extension of time from the
27 current deadline to file dispositive motions in this case, with a new deadline to and including Monday,
28 March 9, 2020.

1 **II. DISCUSSION**

2 **A. Fed. R. Civ. P. 6(b)(1) allows this Court to extend deadlines.**

3 District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v.*
4 *Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir.
5 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

6 When an act may or must be done within a specified time, the court may,
7 for good cause, extend the time: (A) with or without motion or notice if
8 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

9 “The proper procedure, when additional time for any purpose is needed, is to present to the
10 Court a timely request for an extension before the time fixed has expired (*i.e.*, a request presented
11 before the time then fixed for the purpose in question has expired).” *Canup v. Miss. Valley Barge Line*
12 *Co.*, 31 F.R.D. 282, 283 (D.Pa. 1962). The *Canup* Court explained that “the practicalities of life” (such
13 as an attorney’s “conflicting professional engagements” or personal commitments such as vacations,
14 family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court
15 deadline. *Id.* Extensions of time “usually are granted upon a showing of good cause, if timely made.”
16 *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D.Ohio 1947). The good cause standard considers a party’s
17 diligence in seeking the continuance or extension. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d
18 604, 609 (9th Cir. 1992).

19 **B. Good Cause Exists to Enlarge the Time for Defendants to Respond.**

20 Here, Defendants are requesting additional time to respond in advance of the deadline to do so.
21 Therefore, they must demonstrate good cause for the requested enlargement. Moreover, good cause
22 exists to enlarge Defendants’ time to move for summary judgment based on Plaintiff’s extensively large
23 complaint containing numerous alleged constitutional violations against fourteen (14) Defendants. (See
24 generally ECF No. 6.)

25 Good cause exists to enlarge Defendants’ time to file dispositive motions in this matter because: (1)
26 Plaintiff’s claims include numerous counts containing numerous alleged constitutional violations
27 against fourteen Defendants; (2) counsel will need sufficient time to become more acquainted with this
28 case prior to drafting the motion for summary judgment; and (3) counsel needs additional time to

1 explore all possible defenses and obtain declarations from multiple defendants in support of their
2 motion for summary judgment.

3 Defendants request this enlargement of time in good faith, not for the purpose of unnecessary
4 delay, and they do not anticipate any unfair prejudice to Plaintiff if this motion is granted.

5 **III. CONCLUSION**

6 Based on the foregoing, Defendants respectfully request that this Honorable Court grant their
7 motion and allow them an additional sixty (60) days, or up to and including Monday, March 9, 2020, to
8 file their motion for summary judgment.

9 DATED this 8th day of January, 2020.

10 AARON D. FORD
11 Attorney General

12 By: /s/Harry B. Ward
13 HARRY B. WARD, Bar No. 11317
14 Deputy Attorney General

15 *Attorneys for Defendants*

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17
18 IT IS SO ORDERED
19 
20 U.S. MAGISTRATE JUDGE

21 DATED: 1/10/2020

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 8th day of January, 2020, I caused to be deposited for mailing a true and correct copy of the foregoing, **MOTION TO EXTEND THE DEADLINE TO FILE MOTIONS FOR SUMMARY JUDGMENT (First Request)**, to the following:

Joseph Antonetti, #84533
Lea County Correctional Facility (LCCF)
6900 W. Millen Drive
Hobbs, NM 88244

/s/Perla M. Hernandez
An employee of the
Office of the Attorney General